IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.216 OF 2004
IN
MISC. PETITION NO.12 OF 1990

1.Amritlal Ukabhai Padia and Ors.. Petitioners

Vs.

1.Amritlal Gordhandas Jajal
and Ors. .. Respondents

Mr.T.G.Vora with Mr.D.R.Mishra for the petitioners

Mr.C.A.Jani for respondent no.2

Mr.Rahul S.Narvekar i/b M/s.Udwadia Udeshi for respondent no.7.

CORAM : S.U.KAMDAR, J

DATED : 22ND JULY 2005

P.C.:

1. In view of the order passed in Notice of Motion No.1259 of 1990 protecting all the properties, the only question which remains is in respect of amount generated from the building opposite Charity Commissioners Office at Worli to Reserve Bank of India. It is not in dispute that a sum of Rs,1,20,000 is received from RBI. It is also not in dispute that the said amount comes in the account of the Garment Cleaning Works which

according to respondent is sole proprietorship concern of the deceased whereas according to the petitioner it is a partnership firm with the deceased and other persons as partners.

2. At this juncture I do not propose to go into the dispute as the persons who are entitled to the said Garment Cleaning Works, in my opinion the said amount which is generated from the said building is required to be protected to the extent possible. The learned counsel for the respondent states that 80.0 lacs are lying with Union Bank of India, Pedder Road Branch, Mumbai. I direct the Union Bank of India, Pedder Road, Branch to put the said amount in Fixed Deposit initially for a period of one year and renew the same from time to time alongwith accrued interest thereon till further orders from this court. It is made clear that Union Bank of India shall not create any charge or lien in respect of the said Fixed Deposit without express orders from this court. In so far as future income be received from RBI in respect of the said building is concerned, the learned counsel for the respondent states that the said amount will

be duly deposited with Union Bank of India. He will operate the account for limited purpose to make payment of statutory charges and other statutory outgoings such as Municipality charges, water charges, electricity charges etc. In so far as other charges and outgoings are concerned, liberty is granted to respondent to move the court as and when the same is necessary for withdrawing the amount for production of necessary documents for payment of outgoings such as maintenance, repairs etc. of the said building.

3. In so far as the suit which has been instituted by the petitioner in the Small Causes Court against RBI for eviction from the said premises. Petitioners are at liberty to prosecute the said suit and or proceeding arising therefrom on their own cost, charges and expenses. However, if decree is passed in their favour, same shall not be executed without prior permission of this court.

4. Motion disposed of accordingly. No order as to costs.